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The Case For Special Needs

Planning for the disabled can be a tricky—yet rewarding—practice area for advisors.

By Jeff Schlegel

There are more Americans with disabilities than you'd probably think. One commonly quoted number says one in six American families is touched by a disability, which can range from disorders such as autism to a physical disability to Alzheimer's disease.

And by some measures, the problem could be getting worse. At one end of the life cycle are the attendant physical and mental problems associated with the nation's growing senior population. At the other end comes a recent federal report showing that autism spectrum disorders now affect one in 88 U.S. children, up from one in 110 three years ago.

Not all disabilities qualify as special needs cases from a financial planning perspective, but advocates say special needs should be an area of greater focus among financial advisors. That said, it's not a hot-button issue for a lot of advisors.

"One reason for that is that it takes a certain level of compassion, purpose and vision for this market," says Scott MacDonald, a senior vice president at Merrill Lynch Wealth Management in Modesto, Calif. "There's also a high barrier to entry because it requires a deeper knowledge of that market than most advisors can afford to invest the time in."

During his 25 years at Merrill, MacDonald has played a leading role in creating the firm's Fiduciary and Special Needs Group, as well as in developing the Certified Special Needs Advisor designation for Merrill reps who want to serve this market.

Special needs can be a tricky area with a lot of moving parts due to overlapping benefits programs and changing regulations. Well-intentioned mistakes, such as a grandparent giving a special needs grandchild too much money or lawyers setting up the wrong trust, can result in forfeited benefits and other headaches.

People with disabilities are living longer, and more of them are going into the workforce. That creates a host of planning issues, such as making sure they don't disqualify themselves from benefit programs and that they're cared for after their parents die.

Seventy-six percent of people with developmental disabilities live at home with their parents and 25% of those caregivers are over 60 years old, says Mary Anne Ehlert, founder of Protected Tomorrows, a Lincolnshire, Ill.-based advocacy organization for the special needs community. And the average age of the person with developmental disabilities living at home is 38.

"You can see some of the issues and concerns that these parents have who are older and worried about what happens to their children if something happens to them," Ehlert says. "The reality is that the special needs market is significant and it's growing, yet the majority of advisors aren't talking about these issues with their clients. The reason why is because there's so little education about it out there."

Asking Questions
There are various types of disabilities, and Ehlert says they can impact families in different ways. Developmental disabilities typically refer to something a person is born with, such as Down syndrome or autism. Cognitive disabilities include multiple

sclerosis, Parkinson's disease, Lou Gehrig's disease and other ailments where a person had a normal life before getting a life -changing diagnosis.
"The adjustment period for them is difficult because they know what they once were," Ehlert says. "The family is typically supportive. But it's different from parents who have a child with Down syndrome and who see their child in only one way."

Mental diseases such as bipolar disorder or schizophrenia often come about in the late teens or early 20s and cause afflicted individuals to become dysfunctional. "For families, many times they become disjointed and it becomes a disturbing relationship within those families," Ehlert says.

"For advisors, it's important to understand the different types of disabilities," she adds. "When you ask a few questions to get them to tell you about the person, and you are authentic in your interest in your client, they'll share with you what their concerns are in regard to caring for the person in the future."

But advisors often are uncomfortable asking whether clients—or potential clients—have a special needs situation in their family.

Ehlert's solution: ask some broad, simple questions that can help bring up the topic in a nonintrusive way. For example, an advisor can ask clients to talk about their children, grandchildren, parents and siblings to see if any of them will look to them for financial support in the future. "This is a safe question to ask without using the words 'special needs,'" Ehlert says.

Alphabet Soup
For advisors, handling special needs situations can be time-consuming work with a limited return on investment, and some have given up trying to make it a focus of their practice. Pat Collins, a partner at Greenspring Wealth Management in Towson, Md., says his firm dropped special needs as a niche area because ultimately it didn't pay off.

"We're still getting inquiries from people [seeking help for a special needs person], and if they meet our client profile we still want to work with them," he says. "But a lot of these people are financially strapped, and it's difficult from a business perspective to make it work. It's a tough business decision for us because we see this group probably needing more help than anyone else, but at the same time we can't afford to be unprofitable."

Collins adds that Greenspring continues to do pro bono work in this area through workshops for organizations and schools focused on special needs. "They might not work as a long-term client, but we can put on a workshop to point them in the right direction regarding finding the right attorney, drafting the right documents and educating them on the benefits system," he says.

There are oodles of rules and regulations regarding special needs individuals, and they're constantly changing.
Among the alphabet soup of oft-misunderstood programs are SSI, SSDI and SSA.

The SSA is the program from the Social Security Administration that we pay into and collect money from after we retire. SSDI (Social Security Disability Insurance) is the disability we get if we have worked and paid into the system.
SSI (Supplemental Security Income) is a program funded by general tax revenues designed to help aged, blind and disabled people who have little or no income by providing cash to meet their basic food, clothing and shelter needs.

"Sometimes they overlap, which can be confusing," Ehlert says. "And new regs can further confuse things."

One of the more exciting potential developments in the special needs community is the Achieving a Better Life Experience Act (ABLE Act). This legislation, introduced last November in both houses of Congress, aims to create ABLE accounts within Section 529 of the Internal Revenue Code that would act as tax-free savings vehicles for special needs individuals.

Instead of using a 529 plan to save for college, people could use a modified 529 to save for a special needs person. The funds would pay for disability-related expenses on behalf of designated beneficiaries with disabilities that will supplement, but not supplant, benefits provided through private insurance, the Medicaid program, the supplemental security income program, the beneficiary's employment and other sources.

These accounts would be available in every state and would have the same $13,000 annual contributions and same reporting requirements as a 529 college savings account. But on a cautionary note, if an ABLE account tops $100,000 for a beneficiary who's receiving SSI benefits, those monthly SSI benefits will be suspended. SSI would kick in again (without the need to reapply for benefits) once the ABLE account drops back below $100,000. At the same time, those receiving Medicaid benefits wouldn’t lose their benefits even if their ABLE accounts exceed $100,000 and they lose their SSI.

“When this passes, it’s really important that people understand the potential upside and downside of this measure,” Ehlert cautions. As of press time, the legislation hadn’t been scheduled for a vote.

Opening Up

Many advisors who engage in special needs planning do so because of personal family experiences. Others are thrust into it when they take on a client with a special needs family member.

Chris Roehm, an advisor at Fort Lauderdale, Fla.-based Universal Partners, an affiliate of the broker-dealer firm NFP Securities Inc., says he got involved in this space because of a client who has a sister with special needs. “If you understand estate planning and how to apply for financial aid, then I don’t think special needs is too confusing,” he says. “I think the social and family impact issues are the areas most financial advisors aren’t up on.”

Roehm turned to Protected Tomorrows to help him navigate the process with his client. Ehlert, a former financial planner, started Protected Tomorrows nine years ago to serve the special needs community. Her inspiration came from her late sister, Marsha, who was born with cerebral palsy. Among other things, her company guides financial advisors in the special needs space in one of two ways. One is through an extensive program to train them to become advocates for people in that community.

The other is through a Web-based training program for advisors who don’t want to become advocates but who want the tools and resources needed to work with special needs families and manage their business risk in this area. “For advisors, we’re similar to plugging in an attorney or a CPA,” she says.

Roehm says the online training was helpful, but the biggest thing he learned from the program was how to relate to this demographic after he sat in on a conference call with Ehlert and his client. “I could tell this was a conversation he never had before,” he says. “Mary Anne asked questions about different aspects of his sister’s life, like if she ever had a job or a boyfriend, and who takes care of her. He really opened up and described his vision for his sister and what the best outcome could be.”

Key Items

Experts say there are some fundamental things advisors need to do when serving special needs individuals and their families, such as not underestimating the amount of money needed for future care. “It comes back to creating cash flows for the many stages of life for a person with disabilities,” Ehlert says. “It’s important because many people with disabilities increasingly are living longer lives.”

In addition, advisors need to be careful they don’t incorrectly title assets such as investments, life insurance, savings bonds and real estate. “People with special needs have a very limited amount of assets they can own in their name without causing them to lose their benefits,” Ehlert says.

Scott MacDonald from Merrill Lynch notes the first thing advisors need to do is find a qualified special needs attorney to draw up the proper special needs trusts for an individual. “Each state has its own unique limitations on what investments are allowed in a special needs trust,” he says. “It’s easy to be in violation without even knowing it.”

MacDonald says the Special Needs Alliance and the Academy of Special Needs Planners provide lists of specialized attorneys in this field. He also suggests advisors take a team approach by partnering with experienced care managers, benefits counselors and life care planners as needed.

To MacDonald, whose interest in this area stems in part from the experiences of his autistic nephew, advisors who handle special needs cases are providing a valuable service in an era of shrinking public benefits and social services. “We’re effectively moving toward a private social services system funded through special needs trusts,” he says. “Disabled people are living longer, and we can give them a better quality of life with proper planning.” ◘